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MATTHIAS SCHOLL 14781 MEMORIAL DRIVE SUITE 1319 HOUSTON, TX 77079				
EXAMINER				
CHANKONG, DOHIM				
ART UNIT		PAPER NUMBER		
2452				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/775,581

Applicant(s)

WROBEL, PAWEL

Examiner

DOHM CHANKONG

Art Unit

2452

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to Applicant's request for continued examination. Claims 6, 12, and 14 are amended. Claim 20 is added. Claims 6-20 are presented for further examination.
2. This action is a non-final rejection.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/4/2008 has been entered.

Response to Arguments

4. Applicant argues that the claims "require that all data from a carousel are [sic] retrieved" and that Stalker teaches away from this limitation. Applicant further argues that the claims are directed to an invention that "reads all data of the carousel and only after all data have been retrieved and stored modules are obtained." Applicant's arguments have been carefully considered but are not persuasive.

Claim 14 is amended to recite "retrieving all data, according to identified parameters, from the carousel of objects" and "storing the data being retrieved." However, one interpretation of this language is that all data *that have a specific PID number* are retrieved from

the carousel of objects and not necessarily all data. This interpretation is consistent with the claim language which recites retrieving data *according to the identified parameters*.

Additionally, newly added claim 20 recites setting up a filter for "passing all data related to the carousel of objects broadcasted within packets *identified with a specific PID number*." Contrary to Applicant's arguments, this claim language seem to suggest that retrieval of data is hinges on whether the data contains a specific PID number and therefore implies that packets that have different PID numbers are ignored or not retrieved from the carousel. This interpretation of the claims is taught by Stalker which teaches retrieving from the carousel all packets that have the same identifier while ignoring other data packets that have different PID numbers [0019, 0023]. If Applicant's arguments were accurate - that all data is retrieved from the carousel - then the claim limitations directed to establishing a filter for a specific PID number would simply be superfluous. In other words, if *all* data is retrieved as Applicant argues, then there would be no need to qualify its retrieval based on a filters or PID numbers. The use of a filter and the phrase "according to the identified parameters" imply that only certain data is being retrieved - all data that have the same PID number. If this interpretation of the claims is incorrect, then Applicant should either (1) explain the need for a filter to pass data with a specific PID number in a system that allegedly downloads all data from the carousel or (2) amend the claims to more clearly and accurately describe the claimed invention.

Even if Applicant's arguments were accurate and supported by the specification, claim 6 lacks language that describe retrieving all data from the carousel. Claim 6 merely recites retrieving data according the parameters and does not include the limitation of storing all the data that is retrieved from the carousel. While claim 6 does recite "creating modules from the data

being retrieved, after *receiving all data* of the carousel of object," the italicized portion recites *receiving* the data within the carousel which refers to receiving all the data conveyed in the data stream. This is different from what Applicant argues which is retrieving the data from the carousel. Stalker does teach receiving all data in the carousel conveyed within the data stream [0016]. Thus, Applicant's arguments are not persuasive as to claim 6. The rejection of claims 6-12 as set forth in the previous Office action are therefore maintained.

Additionally, a new ground of rejection is set forth with respect to claims 14-20 to address Applicant's interpretation of the claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15, 18, 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 18 is rejected for containing confusing claim language. In particular, the portion reciting "...when an application of the receiver executes a request defining a PID number of packets relating to the carousel of objects to be retrieved, requested by the application, is broadcasted." It is unclear what is being requested by the application and what is being broadcasted. The claim should be amended to more clearly describe what is being claimed. Similar remarks apply to claim 19.

b. Claim 15 recites "a packet filter with a PID number according to the parameters is set to access the receiver to the carousel of objects to be retrieved." The language in this limitation is unclear. For example it is not clear what the packet filter is doing or its relationship to the claimed PID number. It is also unclear the relationship between the PID number and the parameters. Moreover, it is unclear how a packet filter "access[es] the receiver" and its relationship with the carousel of objects. Clarifying language is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 6, 7, 9-12, 14, 15, and 17-19 are rejected under 35 U.S.C. §102(e) as being anticipated by Stalker, U.S Patent Publication No. 2002/0091816.

7. As to claim 6, Stalker discloses a method for reception of software of a receiver, wherein the software is broadcasted in a data stream, in a form of a carousel of objects, the method comprising the steps of:

connecting the receiver to the data stream [0006, 0017];

starting reception of data conveyed in the data stream [0015-0017 : Stalker's client receives data blocks from the data carousel];

identifying parameters of a carousel of objects to be retrieved [0019 : each packet contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed parameter];

retrieving data according to the parameters [0019] from the carousel of objects in a sequence as the data are broadcasted in the carousel of objects [0023];

creating modules from the data being retrieved, after receiving all data of the carousel of objects [Figure 5B : decision block labeled as "Have Read All Blocks?" | 0027];

obtaining content of the modules [0016]; and

storing the content in the file system of the receiver [0031].

8. As to claim 7, Stalker discloses a step of setting a packets filter according to the identified parameters [0016, 0021, 0022 : Stalker discloses installing filters to more efficiently process incoming data blocks within the broadcasted data of the carousel].

9. As to claim 9, Stalker discloses the data are received in a form of packets and from the packets of data stream a section of the packet is retrieved, which includes the module or its part of the carousel of objects [0018], whereas it is next checked if the section includes the required data, which are written in the file system of receiver [0023, 0031], at the same time the completeness of the retrieved carousel of objects is checked [0027 : determining whether all the data blocks have been read].

10. As to claim 10, Stalker discloses the data, retrieved from the data stream, related to the defined carousel of objects, are broadcasted in packets with a specific PID number [0019 : each packet contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed PID number].

11. As to claim 11, Stalker discloses wherein connecting the receiver to the data stream is executed when an application of the receiver executes a request, which defines a PID number of packets [0019], in which the carousel of objects, requested by the application, is broadcasted [0006, 0016].

12. As to claim 12, Stalker discloses wherein connecting the receiver to the data stream is executed when an applications manager attempts to start an application [0019 where : Stalker's interest manager reads on Applicant's claimed applications manager], which is signaled in a given service together with the PID number of packets [0019], in which the carousel of objects of the signaled application is broadcasted [0028].

13. As to claim 14, it is rejected for at least the same reasons set forth for claim 6.

14. As to claims 15 and 17-19, they are rejected for at least the same reasons set forth for claims 7 and 9-12.

15. Claims 14 and 16-19 are rejected under 35 U.S.C. §102(b) as being anticipated by Metz et al, U.S. Patent No. 5,768,539 [“Metz”].

16. As to claim 14, Metz discloses a method for reception of software of a broadcasted in a data stream and accessible to a receiver from a carousel of objects, the method comprising the steps of:

accessing a receiver to a data stream containing a carousel of objects to be retrieved [column 4 «lines 19-30»: set-top terminals receiving software through data carousel type cyclical broadcast];

identifying parameters of a carousel of objects to be retrieved [column 37 «lines 18-19»: channel identifier];

continuously retrieving all data according to the identified parameters from the carousel of objects, in a sequence in which they are available from the moment of reception start [column 38 «lines 33-35»: Metz discloses receiving and storing the entire application file or image before initiating execution | column 37 «lines 23-27»: disclosing that an image or file comprises of downloaded data blocks from the carousel];

storing the data being retrieved [column 38 «lines 33-35»];

creating modules from the retrieved data, after receiving and storing all data [column 10 «lines 5-12» | column 38 «lines 5-13 and 33-35»: reassembling the modules only after all modules of the application file have been downloaded];

obtaining content of the modules [column 38 «lines 54-67»]; and

storing the content of the modules in the file system of the receiver [column 10 «lines 46-51»: disclosing storing any related data from the data file].

17. As to claim 16, Metz discloses decompressing the modules after the modules have been created from the data being retrieved [column 14 «line 63» to column 15 «line 4»].

18. As to claim 17, Metz discloses wherein the data containing modules retrieved from the data stream are broadcasted in packets with a PID number [column 14 «lines 18-34»].

19. As to claim 18, Metz discloses wherein the accessing the receiver to the data stream is executed when an application of the receiver executes a request defining the PID number of packets relating to the carousel of objects to be retrieved, requested by the application, is broadcasted [column 37 «lines 15-22»].

20. As to claim 19, Metz discloses wherein the accessing the receiver to the data stream is executed when an application manager attempts to start the application signaled in a service together with the PID number of packets related to the carousel of objects to be retrieved, requested by the application, is broadcasted [column 37 «lines 15-22»: Metz discloses including the channel identifier; the channel being requested reads on the claimed service].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 8 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stalker, in view of Chari, U.S Patent No. 6,038,319.

22. As to claims 8 and 16, Stalker does not expressly disclose decompressing the modules after the modules have been created from the retrieved data. In the same field of invention, Chari is directed towards a system for sharing television applications based in part on using data carousels for broadcasting modules to receiving stations [abstract]. Like Stalker, Chari discloses assembling modules from received packets [Figure 4 | column 6 «lines 39-43»]. However, Chari further discloses decompressing the modules after assembling them [column 5 «lines 4-6» | column 11 «lines 18-22»].

It would have been obvious to one of ordinary skill in the art to have modified Stalker's method with the decompression functionality taught in Chari. Compression and decompression technology was well known in the art at the time the invention was made for providing enhanced delivery by conserving bandwidth [see Chari, column 4 «lines 10-12»]. Thus, one would have been motivated to combine Stalker and Chari to improve the delivery capability of the modules over the network.

23. Claims 15 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Metz, in view of Stalker.

24. As to claim 15, while Metz discloses utilizing PID numbers to differentiate between packets [column 14 «lines 18-34»], Metz does not expressly disclose setting a packet filter with a PID number according to the parameters accessing the receiver to the carousel of objects to be retrieved. However, using packet filters based on PID numbers at a receiver was a well known feature in the art at the time of Applicant's invention as evidenced by Stalker. Like Metz, Stalker is directed to broadcasting software applications to a receiver using a carousel delivery system [0014]. Stalker however further discloses utilizing a packet filter with a PID number according to the identified parameters is set to access the receiver to the carousel of objects to be retrieved [0016, 0019, 0021, 0022 : Stalker discloses installing filters to more efficiently process incoming data blocks within the broadcasted data of the carousel. Each packet in Stalker contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed PID number]. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Metz's broadcasting system to include packet filtering based on PID number as taught by Stalker. Stalker discloses that one advantage of using such a filter is to allow only specific packets to be passed through to the receiver [0029].

25. As to claim 20, while Metz discloses looking only for data that contain specific PID numbers [column 37 «lines 20-22»], Metz does not disclose setting up a filter for passing all data

related to the carousel of objects broadcasted within packets identified with a specific PID number defined by application requesting data reading from the carousel of objects. Stalker however further discloses setting up a filter for passing all data related to the carousel of objects broadcasted within packets identified with a specific PID number defined by application requesting data reading from the carousel of objects [0016, 0019, 0021, 0022 : Stalker discloses installing filters to more efficiently process incoming data blocks within the broadcasted data of the carousel. Each packet in Stalker contains an identifier that links the module with the specific application. Stalker's identifier reads on Applicant's claimed PID number]. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Metz's broadcasting system to include packet filtering based on PID number as taught by Stalker. Stalker discloses that one advantage of using such a filter is to allow only specific packets to be passed through to the receiver [0029].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571.272.3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dohm Chankong/
Examiner, Art Unit 2452